

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FRED’S LOUNGE, INC.
AI # 71056

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

*
*
*
*
*
*
*

Enforcement Tracking No.
UE-PP-03-0189

SETTLEMENT

The following Settlement is hereby agreed to between Fred’s Lounge, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation who owns and/or operates a lounge facility at 18158 Rushing Road, Prairieville, Ascension Parish, Louisiana (“the Facility”).

II

On February 3, 2004, the Department issued a Notice of Potential Penalty, Enforcement No.UE-PP-03-0189, to Respondent, which was based upon the following findings of fact:

On or about May 7, 2003, an inspection of Fred’s Lounge was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Underground Storage Regulations.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to perform a survey to test the operation of the cathodic protection system within six months of its installation and every three (3) years thereafter, in violation of LAC 33:XI.503.B. Specifically, the cathodic protection system was installed in 1996 and was not surveyed until April 22, 2003.
- B. The Respondent failed to perform monthly monitoring for the UST system, in violation of LAC 33:XI.703.B.1. Specifically, the UST system was installed at the site in 1981, and monthly monitoring was not performed on the system until May 2003.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00) of which Ninety-Six and 72/100 Dollars (\$96.72) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the

Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

FRED'S LOUNGE, INC.

BY: David Rashto
(Signature)

David Rashto
(Printed or Typed)

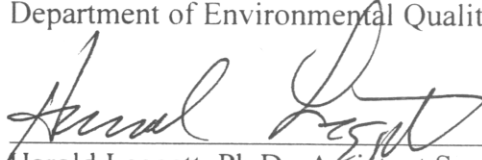
TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 17TH day of SEPTEMBER, 2007, at PERDUEVILLE, LA.

Ralph B. Morris
NOTARY PUBLIC (ID #)
RALPH B. MORRIS
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY:


Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of
December, 2009, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 20451)

Del R. Boyle, II
(Printed or Typed)

Approved:


Harold Leggett, Ph.D., Assistant Secretary

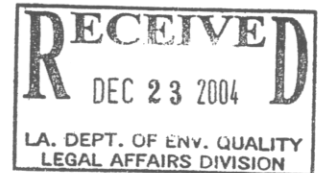


CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

December 13, 2004

Mr. Louis E. Buatt, General Counsel
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302



Re: AG Review of DEQ Settlement;
Fred's Lounge, Inc.
UE-PP-03-0189

Dear Mr. Buatt:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By:


CHARLES C. FOTI, JR.
Attorney General

CCF/mlc